

SUMMARY OF COMPETITIVE FOOD SALE REQUIREMENTS

| Summary of Laws and Regulations | Comments |
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| <p>Federal Regulations 7CFR 210.11, 220.12</p> <p>“State agencies and school food authorities shall establish such rules or regulations as are necessary to control the sale of foods in competition with lunches served under the [National School Lunch] Program. Such rules or regulations shall prohibit the sale of foods of minimal nutritional value in the food service areas during the lunch periods.”</p> <p>“The sale of other competitive foods may, at the discretion of the State agency and school food authority, be allowed in the food service area during the lunch period only if all income from the sale of such foods accrues to the benefit of the nonprofit school food service or the school or student organizations approved by the school.”</p> <p>“State agencies and school food authorities may impose additional restrictions on the sale of and income from all foods sold at any time throughout schools participating in the National School Lunch Program.”</p> | <ul style="list-style-type: none"> • Applies to school food services, student organizations, parent and teacher organizations or entities, and all vending machines in the food service area. • Definitions: <p>“<i>Competitive foods</i>” consist of any foods sold in competition with the National School Lunch and School Breakfast Programs to children in food service areas during the lunch periods.</p> <p>“<i>Foods of minimal nutritional value (FMNV)</i>” – (i) In the case of artificially sweetened foods, a food which provides less than five percent of the Reference Daily Intakes (RDI) for each of eight specified nutrients per serving; and (ii) in the case of all other foods, a food which provides less than five percent of the RDI for each of eight specified nutrients per 100 calories and less than five percent of the RDI for each of eight specified nutrients per serving. The eight nutrients to be assessed are protein, vitamin A, vitamin C, niacin, riboflavin, thiamine, calcium, and iron. (Table I and II).</p> <p>“<i>Food service areas</i>”</p> <p>(1) <u>Indoor</u>: Anywhere where federally reimbursable meals are served (including cafeterias, multipurpose rooms in use as cafeterias, courts, and other indoor locations) OR</p> <p>(2) <u>Outdoor</u>: At points of sale/service where federally reimbursable meals are sold/served (including such points of sale as service windows, mobile carts, kiosk lines, barbecue stands, or other similar arrangements).</p> <p>“<i>Point of sale</i>” means the point in the food service operation where a determination can accurately be made that a reimbursable free, reduced price, or paid lunch has been served to an eligible child.</p> <p>“<i>Lunch period and breakfast period</i>” shall be defined as the times designated for the service and consumption of meals, from the time students are released from class to the time students return to classes.</p> • Outdoor points of sale for a la carte foods may sell or make available FMNV without restriction other than those imposed by state requirements. |

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| <p>State Requirements Education Code Section 39876 (Torres Bill, 1979)</p> <p>Fifty percent of all food items offered for sale each school day at any site by any organization or entity during regular school hours shall be selected from the specified list of nutritious foods (Attachment IV). Food items reimbursed under the National School Lunch Act or Child Nutrition Act are not included in the fifty percent calculation.</p> | <ul style="list-style-type: none"> • Applies to all organizations or entities selling food at any location on the school premises, e.g., school food services, student organizations, parent and teacher organizations, and any vending machines. • Definitions: <i>"Food items"</i> are defined as each separate kind of food offered for sale as a separate unit, e.g., orange juice and apple juice would be two items. <i>"Nutritious foods"</i> refer to those foods specified in Attachment IV of this Management Bulletin. |
| <p>California Administrative Code Education Code Section 48931</p> <p><u>Section 48931</u> states "The governing board of any school district or any county office of education may authorize any pupil or adult entity or organization to sell food on school premises, subject to policy and regulations of the SBE. The SBE shall develop policy and regulations for the sale of food by any pupil or adult entity or organization, or any combination thereof, which shall ensure optimum participation in the school district's or the county office of education's nonprofit food service programs and shall be in consideration of all programs approved by the governing board of any school district or any county office of education."</p> <p>Under this authority, the SBE adopted the California Code of Regulations, <u>Title 5, 15500 and 15501</u>, stipulating the criteria under which student organizations may participate in food sales:</p> <p>Elementary Schools. "No school providing kindergarten or any of grades one through eight shall permit the sale of food by pupil organizations if such school is participating in the National School Lunch, School Breakfast, or Food Distribution Programs."</p> <p>The sale of food by student organizations is permitted only if the governing board approves the sale of not more than one food item; and</p> <ul style="list-style-type: none"> • the sale is conducted after the noon meal service; • the food is not prepared on the school premises; • there are no more than four such sales per year per school; • the food item is a dessert-type food; and • the food item is not sold in the food service program that day at that school. | <ul style="list-style-type: none"> • The SBE may establish policies and/or regulations to optimize participation in the nonprofit food service program. • Applies to student organizations (including parent booster clubs) and vending machines operated by student organizations |

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Junior High and High Schools.

"The governing board of any district or a county superintendent of schools maintaining a high school or a junior high school may permit an organization consisting solely of pupils of such school to sell food items during or after the regular school day if the following conditions are met:

- The specific nutritious food items are approved by the governing board.
- A student organization or organizations may be approved to sell food at any time during the school day, including the regularly scheduled food service period(s) as provided in (1) and/or (2):
 - (1) Only one such organization each school day selling no more than three types of food or beverage items such as confections, popcorn, nuts, fruit, or soft drinks; and/or
 - (2) Any one or more student organizations may conduct no more than four food sales of any food items during a school year in each school, but such sales shall be held on the same four days for any or all organizations.
- The sales during the regular school day are not of food prepared on the premises.
- The food items sold during the regular school day are not those sold by the district in the food service program at that school during that school day."

• **Definitions:**

"Prepared on the premises" refers to the heating or re-heating and service of hot food and/or beverage items such as instant soup, hot chocolate, microwave popcorn, or pizza.

"Types of food or beverage items" refer to categories of food groupings such as fruit juices, soft drinks, sandwiches, or confections. Confections include all candies, cookies, pies, and cakes. For example, if the food service program offers fruit juice for sale, a student organization shall not sell any type of fruit juice.

- **Elementary schools, junior high, and high schools** have different requirements:

Elementary Schools may sell no more than one food item; the item must be from the specified list of nutritious foods (Attachment IV).

Junior High and High Schools are permitted to have only one organization sell each day except four days during the school year. On four days during the year, any number of organizations may sell.